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Report of the Ethics Office

Summary

This first report on the activities of the UNDP Ethics Office is submitted to the Administrator pursuant to the Secretary-General's Bulletin on the United Nations system-wide application of ethics: separately administered organs and programmes (ST/SGB/2007/11). It is submitted to the Executive Board pursuant to its decision 2008/37, paragraph 10. The report conforms to the agreed framework adopted by the United Nations Ethics Committee. It was reviewed by the Committee at its 10th session, on 26 February 2008.

The present report offers an overview of the activities of the Ethics Office and the progress in the implementation of policies under its mandate from 1 December 2007 to 31 December 2008. It concludes with observations on some challenges that it has faced and directions for safeguarding and enhancing an organizational culture of integrity, transparency and accountability in UNDP.

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I. Introduction

1. The first year of the UNDP Ethics Office was marked by start-up challenges and a high volume of demands for its services. The present report[1] describes the results achieved by the office during its first reporting period, from 1 December 2007 to 31 December 2008.

2. Among the many activities undertaken by the Ethics Office in collaboration with relevant offices, the following results are highlighted:

(a) *Establishment*. The office had to establish its facilities and procedures while simultaneously responding to staff requests for services. Following the interim period of over seven months, the three regular staff of the office were recruited and appointed. The office moved into a location that provides a good level of confidentiality and security to handle sensitive information.

(b) *Training*. In partnership with the Office of Human Resources (OHR), a mandatory online ethics training course and a face-to-face workshop were developed and delivered. By the end of the reporting period, 6,143 staff members had completed the online course and 180 had participated in the workshops. The ethics training programme was designed to assist staff in observing UNDP standards of conduct in the workplace. It raises staff and management awareness of the need for ethical decision-making and equips them to handle conflict-of-interest situations. In addition, the office gave numerous briefings on its work, as well as on UNDP standards of conduct.

(c) *Confidential advice*. Of all the requests that the office received – other than those related to financial disclosure – the largest category (48 per cent) was for *conflicts-of-interest advice and other ethics-related concerns*. Of the requests for ethics advice, the largest category (42 per cent) was *employment-related*, followed by concerns about *outside activities* (35 per cent).

(d) *Financial disclosure*. The office administered the financial disclosure policy for the transaction year 2007. It responded to over 2,700 requests about filing requirements. A total number of 1,716 staff members (99.9 per cent complied with the reporting requirements. A similarly high rate of compliance was achieved for the 2006 year, when 1,593 staff members (98.5 per cent) complied with the reporting requirements for the 2006 exercise conducted by OHR, prior to the creation of the Ethics Office. The office is reviewing the financial disclosure reports submitted for both years.

(e) *Protection against retaliation*. The office received 17 complaints of retaliation, three of which were determined to be prima facie cases and referred to the Office of Audit and Investigation (OAI) for investigation. Interim protection for the staff members was recommended and provided in two of the cases, while the investigations found evidence of retaliation in one case.

[1] This first report on the activities of the Ethics Office is submitted to the Administrator pursuant to *United Nations system-wide application of ethics: separately administered organs and programmes* (ST/SGB/2007/11), paragraphs 3(h) and 5.4. The former paragraph requires each ethics office in the United Nations system to provide an annual report of its activities to the respective executive head of the separately administered organs and programmes. The latter paragraph requires the United Nations Ethics Committee to review the annual reports of the ethics offices and make recommendations for the future, as may be appropriate. The Committee reviewed a draft of this report during its 10th meeting on 26 February 2009, and the present report incorporates the comments. The report is also submitted to the Executive Board, pursuant to its decision 2008/37, paragraph 10, which calls for an annual report of the Ethics Office at the annual session.

3. The present report concludes with observations on some challenges that the Ethics Office has faced and directions for safeguarding and enhancing an organizational culture of integrity, transparency and accountability in UNDP.[2]

II. Background

4. On 1 December 2007, the Administrator established the internally independent Ethics Office, pursuant to ST/SGB/2007/11.[3] The objective of the office is "to cultivate and nurture a culture of ethics, integrity and accountability, and thereby enhance the trust in, and the credibility of, the United Nations, both internally and externally."[4] The office assists the Administrator by ensuring that all management and staff observe and perform their functions consistent with the highest standards of integrity, as envisaged in the Charter of the United Nations, applicable staff regulations and rules and other related administrative issuances, and the *Standards of conduct for the international civil service, 2001*.

5. Concurrent with the Secretary-General's initiative, UNDP was developing its own corporate accountability project, which included various related components.[5] The associated activities that were being carried out prior to the creation of the Ethics Office were later subsumed by it. They included the provision of ethics advice by the Legal Support Office (LSO), the codification of specific protection from retaliation against allegations of wrongdoing in 2007 by LSO[6], a pilot online ethics training course by OHR in 2007 and the first organization-wide financial disclosure exercise for UNDP that was implemented by OHR in 2007.

6. Like other ethics offices in the United Nations system, the UNDP Ethics Office operates on principles of independence, impartiality and confidentiality. The independence of the office is indicated through the direct reporting line of its head to the Administrator as well as term limits. Furthermore, "[i]n order to safeguard and ensure that all matters associated with the discharge of duties and responsibilities ... are independent and free from any undue pressure and influence, solely at the discretion of the head [of the Ethics Office] ..., [the head] may refer any matter within the office's area of responsibility, at any time, to the Chairperson of the United Nations Ethics Committee for advice and guidance, and shall inform the Executive Head ... of the referral made."[7] The Ethics Office cannot be compelled by any United Nations official or body to disclose issues brought to its attention.[8] Nor does the office prejudice or replace existing investigative mechanisms or procedures for the administration of justice.[9]

7. The main areas of responsibility of the Ethics Office are the following[10]:

(a) Develop standards, training and education on ethics issues;

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[2] The report conforms to the agreed framework adopted by the United Nations Ethics Committee, during its meeting on 24 April 2008, for the annual reports of its members. This common framework is to facilitate the review, evaluation and recommendations by the Committee, its Chair and members, while ensuring a coherent approach and consistent substantive analysis in ethics reporting which pinpoints the shared ethical values and standards of the United Nations system.

[3] Structurally, ST/SGB/2007/11 envisaged an independent rather than an autonomous office.

[4] ST/SGB/2007/11, paragraph 1.1

[5] *The UNDP accountability system* (DP/2008/16 Rev. 1), paragraphs 33, 34, 35, 69, 70

[6] A more general provision has been in place since 2005 in connection with the workplace harassment policy.

[7] ST/STG/2007/11, paragraph 4.1

[8] Ibid, Paragraph 1.3

[9] Ibid, Paragraph 2.4

[10] Ibid, section 3, Terms of reference of the Ethics Office of a separately administered organ or programme

(b) Provide guidance to management to ensure that UNDP rules, policies, procedures and practices reinforce and promote the standards of integrity called for under the Charter of the United Nations;

(c) Provide confidential advice and guidance to staff on ethical issues;

(d) Serve as a focal point for raising staff awareness on ethical standards and expected behavior;

(e) Undertake assigned responsibilities for the protection of staff against retaliation for having reported misconduct and for having cooperated with duly authorized audits or investigations;

(f) Administer the financial disclosure policy (except for those staff members at the Assistant Secretaries-General level and above, who disclose to the Secretariat Ethics Office); and

(g) Provide to the executive head[11] an annual report on its activities.

III. Establishment activities

8. The establishment phase of the Ethics Office included the following components:

(a) *Staffing*. The Ethics Office began operations on 1 December 2007 with an Ethics Adviser/Interim Head who was appointed by the Administrator. In January 2008, the Executive Board approved a new D-1 post for the Head of the Ethics Office as well as a new G-6 post for an Administrative Associate. Given the high volume of work, an additional P-5 post was redeployed. Following a global search, the current Head was recruited and took office in July 2008. By December 2008, the recruitment of staff against these posts was finalized. Short-term and part-time consultants and the services of a professional facilitation firm for training were retained. Given the confidential nature of the work of the office, most of it was appropriately undertaken by staff members.

(b) *Facilities*. The Ethics Office moved into a location that provides a good measure of confidentiality for staff and security for sensitive information. In consultation with the relevant offices in the Bureau of Management, the office upgraded its physical and information technology security. The Office procured new office equipment as well as hardware and software to accommodate the security required for the review of data for financial disclosure and retaliation cases. To protect the confidentiality of sensitive information, the office adopted stringent procedures for the physical and automated handling of information.

(c) *Communications*. The Ethics Office provides a confidential environment where staff can feel free to consult on conflict-of-interest issues and request protection against retaliation for having reported wrongdoing. To that end, the office has set up an ethics helpline (1-212-909-7840) and a dedicated e-mail address (ethicsoffice@undp.org). To provide information on the work of the Ethics Office and to create more awareness within the organization, a website was developed and launched on the UNDP intranet in June 2008 (http://intra.undp.org/ethics_adviser). As a new office, the Ethics Office has responded to many requests for information on the progress of its work.

(d) *Work programme*. The Ethics Office was able to establish administrative and operational procedures quickly, so as to efficiently implement the policy areas under its mandate. In that respect, the office consulted with relevant units within

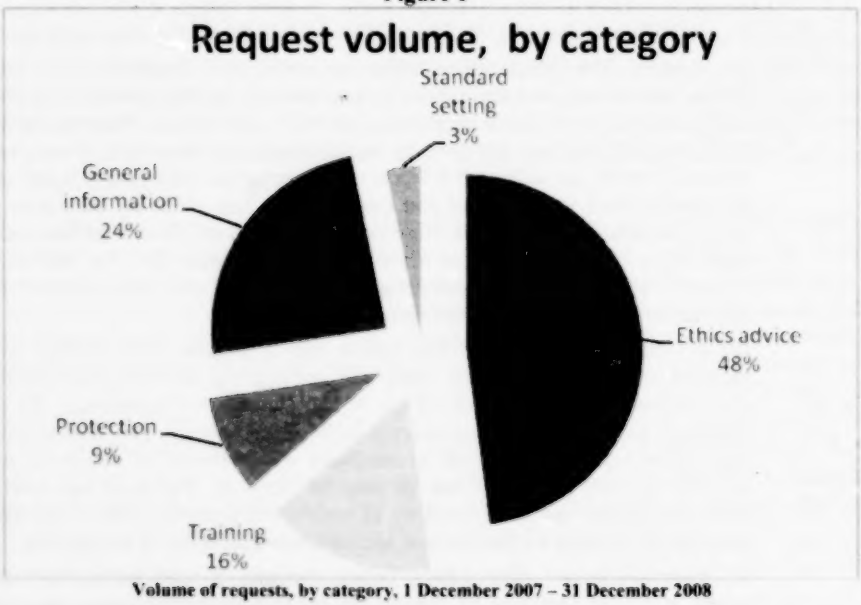
[11] ST/SGB/2007/11, paragraph 3(h). But pursuant to Executive Board decision 2008/37, paragraph 10, the Ethics Office also provides an annual report to the Executive Board.

UNDP such as OHR, LSO and OAI, as well as the Office of the Joint Ombudsperson and the Staff Council. It has also consulted with the members of the United Nations Ethics Committee to ensure harmonization and coherence with other ethics offices in the United Nations system. While consultations and deliberations absorbed a lot of time, they ensured that the Ethics Office had access to and profited from available best practices and lessons learned.

IV. Policy implementation activities

9. During this first reporting period, the Ethics Office received 186 requests[12] that were placed into the following categories: Ethics advice – 89; training – 29; protection against retaliation for reports of wrongdoing – 17; general information – 45; and standard setting – 6 (figure 1 shows the breakdown of requests by category). Each request may generate a response that varies from a simple answer or referral to time-consuming research and fact-finding or other follow-up activities.

Figure 1



Volume of requests, by category, 1 December 2007 – 31 December 2008

A. Standard-setting and policy support

10. One of the most important functions of the Ethics Office is to consult on, clarify and provide information on standards of conduct. The Ethics Office has worked in this regard within UNDP and with the United Nations Ethics Committee. Upon request, it has clarified provisions of existing administrative issuances to management and staff, either in briefings to groups or to individuals. The office posted detailed information about the standards of conduct on its website, available on the UNDP intranet. At the suggestion of

[12] The actual number of requests may be underreported. Moreover, the number reflects only those requests not associated with financial disclosure activities, which generated more than 2700 requests, the largest category. The category for *training* includes not only requests received but also activities initiated by the Ethics Office itself.

staff, the office plans to post a set of frequently asked questions on its website, and to prepare information brochures about the mandate of the office in 2009.

11. With other stakeholders in UNDP, the Ethics Office has contributed to the OHR initiative in updating the policies on workplace harassment and hiring practices[13]. It has worked with LSO to update the provisions for protection against retaliation for reporting wrongdoing.[14] Upon request, it has clarified conflict-of-interest dimensions of procurement-related practices.

12. Within the United Nations Ethics Committee, the Ethics Office participated in drafting, finalizing and consulting on a United Nations system-wide code of ethics. This initiative by the Secretary-General was in response to the 2005 World Summit Outcome that urged a scrupulous application of existing standards of conduct and the development of a system-wide code of ethics for all United Nations personnel.[15] The new code of ethics is an aspirational statement of values and principles, an addition to the existing staff regulations and rules, other relevant administrative issuances, and the 2001 international civil service standards of conduct. From August to October 2008, the office coordinated the UNDP consultation process on the draft code of ethics by presenting it to senior management, the relevant offices of UNDP and the Staff Council. OHR solicited staff comments through the resident representative/resident coordinator network, the human resources network and management practice network. The Staff Council made its comments directly to the Secretary-General through the United Nations International Civil Servants Federation.

13. In partnership with OHR and the accountability project, the Ethics Office translated into the six official languages of the United Nations and printed *Putting Ethics to Work: A Guide to UNDP Core Values and Standards of Conduct*. Electronic versions were made available on the intranet website to facilitate distribution to staff. The guide represents an adaptation of the United Nations booklet *Putting Ethics to Work*, which provides staff with a user-friendly introduction to the existing standards, also known as the United Nations 'code of conduct'.[16] The UNDP guide highlights the main challenges to professional and ethical conduct and illustrates the rationale behind the existing standards, in the context of the mission and values of UNDP. It also provides references to key documents, services and other resources for staff.

B. Training, education and outreach

14. From its inception, the Ethics Office has prioritized training and education as a key plank of its prevention mandate, which is an objective shared by senior management and the Staff Council. With the relevant substantive units within UNDP and benefiting from existing training modules in the United Nations system, it developed curricula on professional ethics issues. The curricula are designed to help staff prevent, identify and resolve conflicts-of-interest and other professional ethical problems in the workplace. The office customized one module for training-of-trainers in order to identify and train UNDP staff members to give peer ethics training. In order to institutionalize and support the peer training, the Ethics Office and OHR Learning Resource Centre (LRC) intend to create an informal ethics training-of-trainers network.

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[13] UNDP *Human Resources User Guide*

[14] UNDP *Legal Framework for Addressing Non-Compliance with UN Standards of Conduct*

[15] A/RES/60/1

[16] *Status, Basic Rights and Duties of United Nations Staff Members* (ST/SGB/2002/13), issued as circular UNDP/ADM/2002/58 of 20 December 2002

15. *Mandatory online learning course*. The online ethics learning course that had been piloted by OHR in 2007 and reviewed by the Ethics Office was launched by the Administrator in February 2008, as a mandatory course. The online course had been adapted from a module developed by the United Nations Office on Drugs and Crime (UNODC) and later refined by the United Nations. It serves as a user-friendly foundation course in relevant human resources and financial rules and is designed to promote awareness of UNDP standards of conduct. It is available in English, French and Spanish. The curriculum includes learning exercises, links to reference material and a printable certificate of completion. As of 31 December 2008, 6,143 staff members had completed the course. At the request of the Staff Council, the Administrator agreed to extend the deadline for compliance until the end of February 2009.

16. *Face-to-face workshop*. To complement the online learning course, the Ethics Office – in consultation with LRC and the United Nations Ethics Office – designed and launched a half-day ethics training workshop entitled 'Professional Ethics and Integrity in our Daily Work'. In the period under review, seven workshops were conducted, reaching 180 staff members, and preparations have been made to deliver more workshops in early 2009. This face-to-face workshop is designed to review typical conflict-of-interest situations and other workplace ethical dilemmas, and to ensure a common understanding of the ethical standards and practices required in UNDP. Through facilitator-led discussions, practical exercises and UNDP-specific case studies, the content and structure of the workshop can be tailored to meet the specific needs of units. The staff of the Ethics Office attended many of the workshop sessions in order to present the work of the office, engage in meaningful discussions with participants, and receive feedback. Moreover, the office and LRC monitored the feedback and liaised with the training facilitators to update and adapt the curriculum to reflect participants' evolving priorities. With the support of LRC, workshops were held for various induction programmes throughout 2008.

17. *Training of trainers*. An accompanying training-of-trainers session was held at one induction workshop in December 2008. On a pilot basis, one bilingual (Spanish/English) staff peer facilitator was trained and preparations made for his participation in a country office training in early 2009. Preparations are under way for another training-of-trainers session where, potentially, eight staff peer facilitators would be trained in early 2009. The Ethics Office and LRC are developing a methodology to identify and train interested and qualified UNDP staff members, while striving for gender, geographical and linguistic representation.

18. *Briefings*. Following the appointment of the interim Head, the Ethics Office took steps to raise awareness of its role and responsibilities. During the reporting period, the office gave briefings at four of the five regional cluster meetings: Africa, Latin America and the Caribbean, Europe and the Commonwealth States, and Asia and the Pacific (plans are under way to provide a briefing in the Arab States region in early 2009). It delivered or facilitated briefings in four country offices. Additional briefings were given, upon request, by various units at headquarters. The office made presentations during legal workshops conducted by LSO, including a workshop for senior managers.

19. In collaboration with LRC, plans are under way to develop a longer training module that focuses on professional integrity as a core competency for all levels. The integration of other core competencies, such as accountability – particularly at the leadership level – is being explored.

C. Advice and guidance

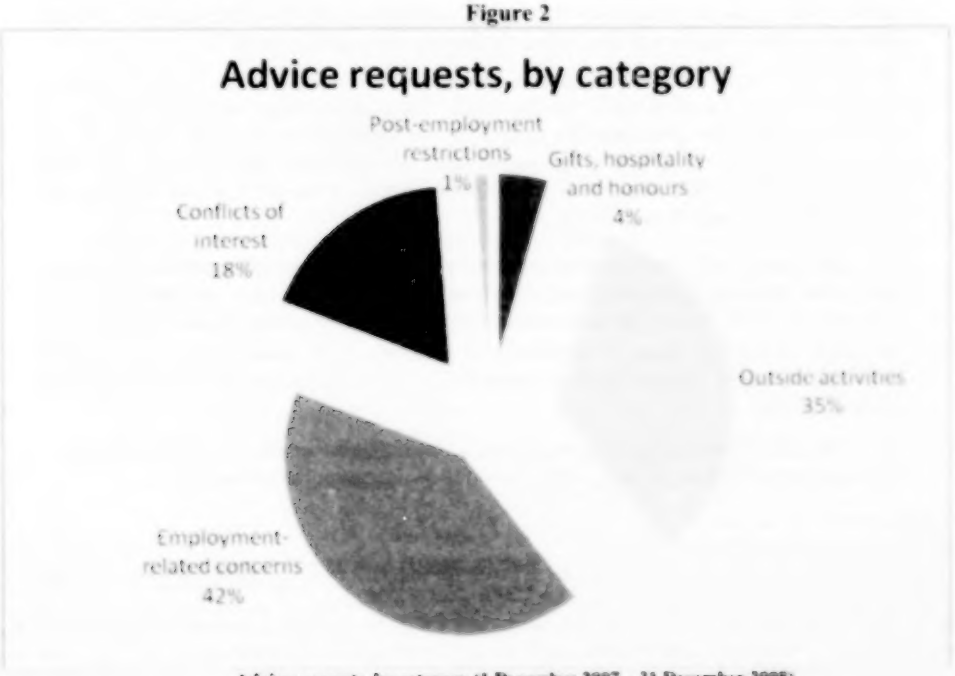
20. Another key function in the prevention mandate of the Ethics Office is to provide confidential advice and guidance to individual staff members, staff groups and offices. This customized service seeks to help staff maintain high professional and ethical standards, as well as to avoid and manage situations giving rise to conflicts of interest.

21. Staff members may contact the Ethics Office to discuss ethics-related issues that involve actual, apparent, or potential conflicts of interest. Conflicts of interest can arise from outside activities; financial holdings and liabilities; post-employment restrictions; the acceptance of gifts, hospitality or honours; and other employment-related concerns. Staff may seek clarification on relevant UNDP regulations, rules, systems and policies. The Ethics Office is not meant to replace established mechanisms for reporting misconduct. Neither is it intended to serve as a medium for the resolution of grievances. Its main purpose, rather, is to provide a forum for staff members and management to seek advice in confidence.

22. Upon receiving a request for advice, the Ethics Office seeks additional information as needed. When all the facts are presented for a particular case, the office will provide advice and guidance on the appropriate course of action to ensure that the issue is resolved in the best interests of UNDP and the staff member.

23. During the period under review, the Ethics Office received 89 requests for advice on a wide range of ethics-related concerns. The requests were categorized as follows: gifts, hospitality and honours (4); outside activities (31); employment-related concerns (36); conflicts of interest, including personal investments and assets (16); and post-employment restrictions (1).

Figure 2



Advice requests, by category (1 December 2007 – 31 December 2008)

24. During its first year of operation, the Ethics Office was very visible in UNDP, reminding staff of the required standards of conduct and raising awareness through training and other briefings. This visibility and the emphasis on prevention may have contributed to the high volume of requests for advice. As shown in Figure 2, a significant number of requests for advice are *employment-related concerns*. This finding may be due to the inaccurate perception held by many staff members that the office is a forum for presenting their grievances.

25. At times, the Ethics Office has had to undertake research into complex requests for advice related to *outside activities*. For instance, a request by a staff member to be affiliated with an outside organization in his or her private capacity requires research. Facts concerning the mandate of that organization, any existing relationships with the UNDP or the United Nations system, and a comparison of the staff member's official duties vis-à-vis the proposed role on behalf of the outside organization have to be examined for potential conflicts of interest, prior to giving advice. Such requests have consumed much staff time.

26. In addition to the general advice and guidance offered to UNDP staff and management, the Ethics Office responded to requests from other United Nations organizations and non-governmental and governmental organizations for information and lessons learned.

D. Financial disclosure policy

27. The Ethics Office administers the financial disclosure policy, which was designed to promote transparency, manage the risk of conflicts of interest through detection and prevention, and enhance public trust in the integrity of the organization. The policy enables the office to assess whether a staff member's private interests and financial dealings might interfere with the proper discharge of the staff member's official duties.

28. In May 2007, the Administrator approved the financial disclosure policy,[17] whereby designated staff members must disclose their financial holdings, private affiliations or outside activities and other relevant interests every year. The policy seeks to balance the requisite transparency of the organization with the privacy rights of staff who must comply with the policy. Disclosure is therefore mandatory for the selected staff, but the information disclosed is confidential.[18]

29. The Ethics Office reviews the disclosure reports for potential conflicts of interest and, where necessary, provides advice on how best to manage such conflicts, in the best interests of UNDP and of the staff member.[19] Staff members may remove any potential or actual conflict of interest identified by divesting their ownership in problematic holdings, resigning from outside activities, or recusing themselves from certain official responsibilities.

30. An annual *financial disclosure statement*, including information covering spouses and dependent children, is required from the following categories of staff[20]:

[17] As mandated by the Secretary-General in ST/SGB/2006/6.

[18] The under-secretaries-general and assistant-secretaries-general in UNDP file with the United Nations Secretariat Ethics Office and are requested by the Secretary-General to make their disclosure public, on a voluntary basis.

[19] The head of the Ethics Office (and from 2008, the rest of the Ethics Office staff) files with and is reviewed by the same entity which reviews the confidential financial disclosure statements of the staff of the United Nations Secretariat Ethics Office.

[20] Staff members on $1-a-year-appointments or those serving on appointments of short duration (six months or less) and also fall under (a) through (e) are required to complete the shorter *declaration of interest* form. Under UNDP's procurement rules, persons serving as voting members of procurement committees are also required to file a shorter *declaration of impartiality statement*. They include those who serve

(a) All staff members at the D-1 or L-6 level and above;

(b) All staff members who are procurement officers, or whose *principal* occupational duties are the procurement of goods and services for UNDP;[21]

(c) All staff members whose *principal* occupational duties relate to investment of the assets of UNDP or of any accounts for which UNDP has fiduciary or custodial responsibility;

(d) All staff members whose direct access to confidential procurement or investment information warrants the filing of a financial disclosure statement; and

(e) The chairperson and the alternate chairperson of either the Advisory Committee on Procurement at headquarters, and the chairperson and the alternate chairperson of the Contracts, Assets, and Procurement Committee in country and regional offices.

31. The first annual financial disclosure exercise of UNDP for the transaction year 2006 was conducted by OHR in September 2007. As the first step, heads of country and headquarters offices nominated financial disclosure policy focal points to compile lists of staff members who were required to file. A user-friendly, secure, online filing application was developed by the Office of Information Systems and Technology in collaboration with OHR. The configuration of the application was such that only the financial disclosure policy filer could view his or her report.

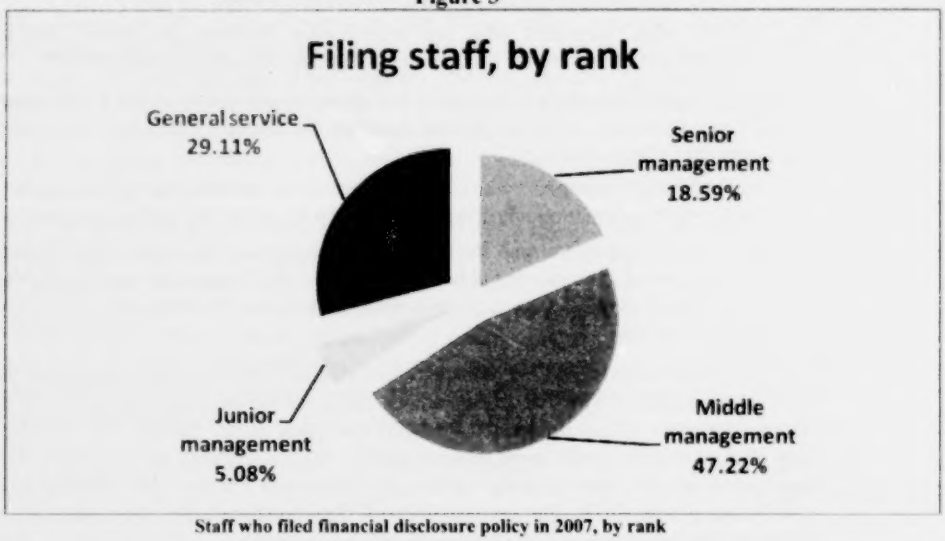
32. For the 2006 exercise, 1,617 staff members were required to comply by submitting either a financial disclosure statement or a declaration of interest statement. Of that total, 1,593 staff members fulfilled their filing requirements – a 98.6 per cent compliance rate. This initial, high rate of compliance may be due, in part, to an online training course on financial disclosure filing requirements and procedures, as well as the frequently-asked questions developed by OHR.

33. The 2007 financial disclosure exercise filing period began in October of 2008. Similar to the previous exercise, a temporary financial disclosure programme support team was engaged to assist staff with the filing process. As the first step, a group of 180 financial disclosure focal points verified and updated their lists of staff designated to file by using an online application developed expressly to manage the registration of staff. The support team answered more than 2,700 queries about the filing process. A total of 1,718 staff members were required to comply. The increase from 2006 to 2007 in the number of staff required to file may be attributed to a better understanding of the filing categories. (For an overview of staff members who were required to file, see figure 3 for a breakdown by rank, figure 4 for a breakdown by function and figure 5 for a breakdown by location.) Of 1,718 registered filers, 1,716 fulfilled their filing requirements, indicating a 99.9 per cent compliance rate.

as voting members on procurement committees that provide advice on the purchase of goods and services. These committees may be located at headquarters, outposted offices, country offices, and regional offices. The principal procurement committees are the Advisory Committee on Procurement at headquarters and the Advisory Committee on Contracts, Assets, and Procurement in country offices. In addition, all staff of the Ethics Office have complied (the non-designated staff on a voluntary basis) with the financial disclosure policy for the 2007 exercise.

[21] This latter description indicates staff with principal duties in procurement, who are listed as buyer or approver in the UNDP financial management system, Atlas.

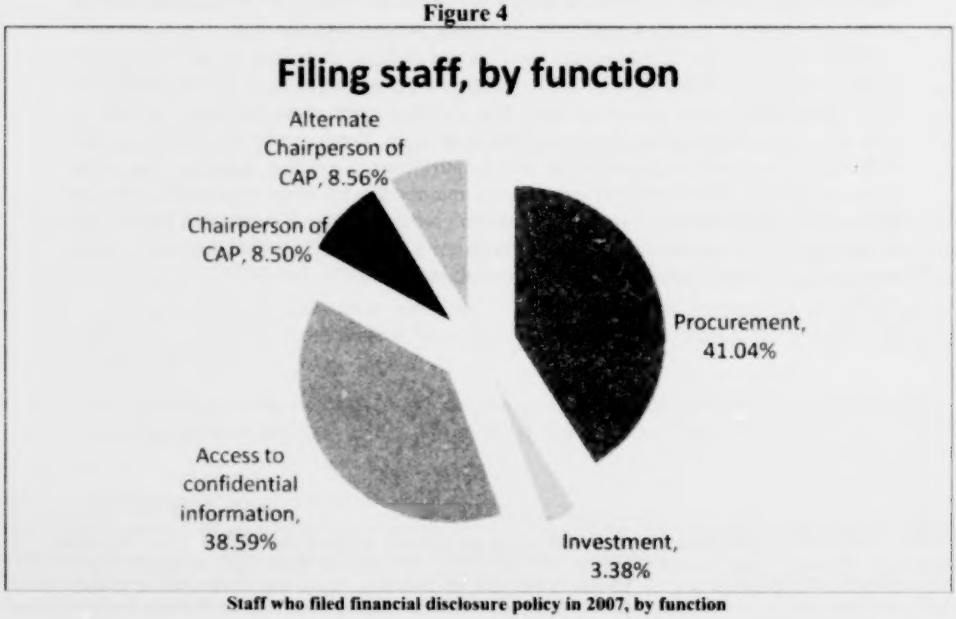
Figure 3



Staff who filed financial disclosure policy in 2007, by rank

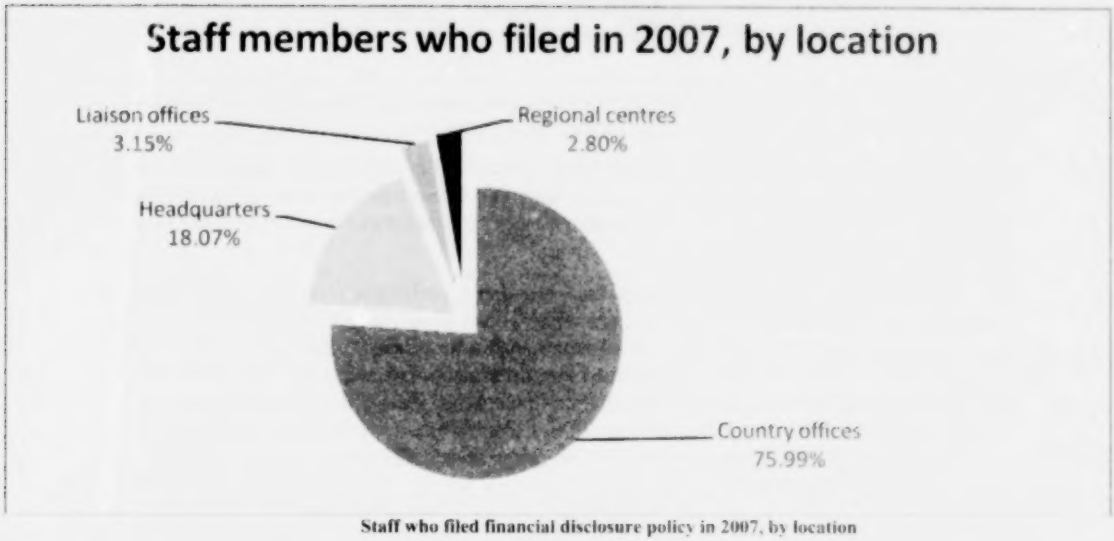
34. As is required by the UNDP financial disclosure policy, the Ethics Office is following up on those staff members who did not comply with the mandatory exercises in 2006 and 2007. It is also reviewing the 3,309 statements submitted during the 2006 and 2007 exercises by staff – who reported 14,227 transactions – for completeness of information and potential conflicts of interest. The office has begun a review which will include contacting individual staff members for missing information and recommending actions to remove potential or actual conflicts of interest.

Figure 4



Staff who filed financial disclosure policy in 2007, by function

Figure 5



Staff who filed financial disclosure policy in 2007, by location

E. Protecting staff against retaliation

35. The UNDP policy on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations, as contained in the UNDP *Legal Framework for Addressing Non-Compliance with UN Standards of Conduct*, was updated to its current form in May 2008. As is the case with other protection policies in the United Nations system, the policy provides protection for those alleging wrongdoing and misconduct rather than those alleging poor management or inter-personal conflicts.

36. Once the Ethics Office receives a complaint, it makes an initial assessment that can, at times, involve reviewing hundreds of pages of documents. The initial assessment can lead to different outcomes: (a) the complaint is outside the scope of the Ethics Office mandate and the complainant is provided with appropriate advice or referred to the appropriate office (with the consent of the complainant); (b) the complainant decides to drop the complaint, for various reasons; or (c) the complaint leads to a preliminary review to determine whether a prima facie case exists.

37. Normally, the Ethics Office will conduct the preliminary review within 45 days of receiving a complaint. The process involves a thorough analysis of supporting material submitted by the complainant followed by additional inquiries in order to determine whether there is corroborating evidence in support of the complaint. After the preliminary review, the office may find that there is a prima facie case of retaliation and refer it to OAI for investigation, or may determine that there is no such case and take no further action.

38. When a prima facie case is determined, OAI normally seeks to complete its investigation within 120 days. The policy shifts the burden of proof to the organization, requiring management to show that it would have taken the same action against the complainant, absent the protected activity. The Ethics Office has the discretion to recommend that appropriate interim measures be taken to protect the complainant.

39. If management is unable to discharge its burden of proof in the investigation, the Ethics Office recommends that the Administrator approve restitution. Further, the office refers the case to LSO, which will assess whether it is appropriate, pursuant to the *Legal*

Framework for Addressing Non-Compliance with UN Standards of Conduct, to initiate disciplinary proceedings against those who have engaged in retaliation, since retaliation is a form of misconduct. Intentionally false complaints are also grounds for a finding of misconduct.

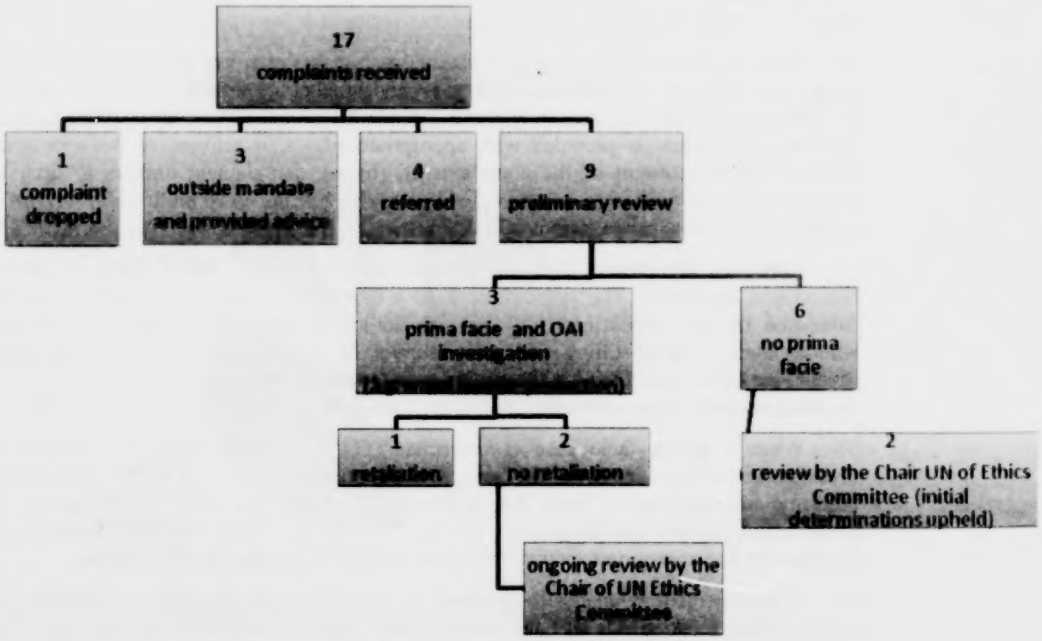
40. At any stage of the process, the complainant can request a review of the decision of the Ethics Office to the Chair of the United Nations Ethics Committee.

41. For the reporting period, the Ethics Office received 17 complaints of retaliation. One was dropped by the complainant. Seven were found to be outside the scope of the Ethics Office mandate; advice was provided in three cases, and referrals to other offices were made in four cases.

42. Of the remaining nine complaints that warranted preliminary review, three were determined to meet the test of a prima facie case. Those three cases were referred to OAI for investigation. Moreover, based on the recommendations made by the Ethics Office for two of the three cases, management provided interim protection to the complainants. Out of the six complaints where no prima facie case was established, two complainants requested a review by the Chair of the United Nations Ethics Committee. In both cases, the Chair, in consultation with the Committee, upheld the 'no prima facie' determinations of the office.

43. At the conclusion of the OAI investigations, evidence of retaliation was found in one case. Since interim protection had been provided in that case, the complainant did not suffer any consequences. The matter was referred to LSO for appropriate follow-up. In the remaining two cases, where retaliation was not established, one complainant has requested a review by the Committee Chair, which is under way. (See figure 6 for the outcomes of the protection process for complaints received during the reporting period.)

Figure 6



Overview of complaints of retaliation (1 December 2007 – 31 December 2008)

V. The United Nations Ethics Committee

44. The mandate of the Committee, established in January 2008, is to create a unified set of ethical standards and policies across the funds and programmes and consult on important and complex issues raised by any member or the Chairperson of the Ethics Committee, and which have implications for the United Nations system.[22] The Committee is composed of the heads of the ethics offices of the Secretariat, UNDP, UNFPA, the United Nations Office for Project Services, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the United Nations Relief and Works Agency and the World Food Programme. The Committee is chaired by the Director of the United Nations Ethics Office.

45. In 2008, the UNDP Ethics Office participated regularly in the Committee meetings, hosting two of them. The work programme for 2008 focused on drafting the United Nations system-wide code of ethics (described in chapter IV, section A, above), comparing the protection against retaliation policies of its members with a view to harmonization, and reviewing existing ethics training programmes. For further information on the work of the United Nations Ethics Committee, please refer to the report of the Secretary-General on the activities of the Ethics Office, presented at the sixty-third session of the General Assembly (A/63/301).

46. The Committee also serves as a recourse mechanism for staff members of the member organizations in the event that they wish to seek a review of a decision of their Ethics Office with respect to a request for advice or complaint of retaliation for having reported wrongdoing.[23]

VI. Conclusion

47. The present report describes how the Ethics Office successfully met the dual challenges of setting up a new office while fulfilling its mandate, with the support of its stakeholders. During the first reporting period, the office worked towards its objective of enabling staff members to observe the highest standards of integrity through safeguarding an organizational culture of ethics, transparency and accountability. It has emphasized its prevention and risk-management functions by prioritizing training and awareness-raising, as well as the provision of confidential advice.

48. In its early days, the Ethics Office noted two major challenges in communicating its role and responsibilities to staff. First, given that UNDP is largely a field-based organization, it is difficult to reach all staff directly. The office needs to rely more on web-based services and work closely with country offices and other units to plan briefing and training sessions so as to take advantage of ongoing events. For instance, the initial face-to-face workshops in country offices required much coordination and logistical planning, as well as customization of content. Second, staff members have expressed confusion about the boundaries of functions in related offices such as human resources, legal, investigation and the Ombudsperson's Office. This confusion has been more acute regarding the protection-from-retaliation mandate of the Ethics Office, where protected activities have been narrowly defined within the United Nations system but at times overlap with other complaints of mismanagement or abuse of authority. The trainings and

[22] The United Nations Ethics Committee was established pursuant to ST/SGB/2007/11.

[23] ST/SGB/2007/11, section 4

briefings with LSO, the Ombudsperson and OAI, as well as clearer communications generally regarding the roles of the various offices in grievance procedures, will help reduce the confusion.

49. In providing its services, the Ethics Office has also noted other challenges. First, there is a need to clarify United Nations staff regulations and rules and UNDP human resources practices in regulating outside activities and the receipt of gifts, hospitality and honours. These areas have been traditionally complex for ethics offices of all jurisdictions. Such clarification can best be achieved through consulting with related offices in UNDP to take into account past interpretations and practices, as well as with the United Nations Ethics Committee to ensure harmonization across the system. Second, the Ethics Office is striving to make implementation of the financial disclosure policy more efficient. Although the designated staff complied with reporting requirements at high rates, they required numerous reminders. It is important that staff who are required to file understand the preventive nature of the disclosure policy and its contribution to managing the risks of potential conflicts of interest for UNDP and for themselves.

50. Although the work of the Ethics Office should be characterized by independence, it also needs to be seen within the larger context of the goals of UNDP. In particular, the office needs to support current initiatives for strengthening human resources management and organizational accountability. The people who work for UNDP are its soul, or "the individual and her/his aspirations, responsibilities, values and capabilities [are] at the centre of what we do".[24] The UNDP human resources strategy recognizes that skilled, dedicated staff who value integrity, transparency, mutual respect and accountability, are the main means through which UNDP can achieve its goals of improving people's lives in the countries it serves. With other stakeholders, the Ethics Office will continue to foster a work environment characterized by trust, performance and accountability[25] – reflecting the crucial importance of its prevention mandate.

51. The Ethics Office will support the UNDP accountability project in its efforts to operationalize the accountability framework adopted by the Executive Board. The office can contribute to strengthening internal controls and risk management through the implementation of the financial disclosure policy and protecting staff from retaliation for having reported allegations of wrongdoing. In carrying out its duties, the office will interact with management and staff with independence, impartiality and confidentiality.

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[24] *Human Resources in UNDP. A people-centered strategy, 2008-2011*, October 2008, p.2.

[25] Ibid. Dimension three, goal 3 (p.30).